

REMARKS

The Examiner objected to claim 17 and rejected claims 17, 18, 24, 25, 56, 58-62, 64-68, and 70-75 under 35 U.S.C. §103(a) as unpatentable over IEEE Std 802.16-2001 (IEEE) in view of U.S. Patent No. 6,272,117 to Choi et al. (Choi), background of the instant application (Background), and U.S. Patent No. 6,317,234 to Quayle et al. (Quayle).

By this amendment, Applicants amend claims 17, 18, 24, 56, 61, 64, and 66 to more clearly define the features of those claims and cancel claims 74 and 75 without prejudice or disclaimer.

Claims 17, 18, 24, 25, 56, 58-62, 64-68, and 70-73 are currently pending.

Regarding the objection, Applicants submit that the amendment to claim 17 obviates the basis of the objection.

The Examiner rejected claims 17, 18, 24, 25, 56, 58-62, 64-68, and 70-73 under 35 U.S.C. §103(a) as unpatentable over IEEE in view of Choi, Background, and Quayle. Applicants respectfully traverse this rejection.

Amended claim 17 recites, *inter alia*, the following feature: “monitoring means for monitoring capacity request messages received from the at least one subscriber station, capacity grant messages sent by a base station, and data transmissions received from the at least one subscriber stations, wherein at least one of the capacity request messages comprises information based on previous capacity requests of the at least one subscriber station.”

The Examiner acknowledges on page 4 of the Office Action that IEEE fails to disclose or suggest the above-noted feature of claim 17. To cure this deficiency of IEEE, the Examiner relies on Choi. Office Action at page 4. Choi describes a base station receiving a request from a mobile wireless data terminal for access to a communication channel, and in response to the

request, granting access to the communication channel. The Examiner appears to allege on page 4 of the Office Action that Choi's grant of access to a communication channel constitutes monitoring of capacity grant messages sent by a base station. Applicants respectfully disagree for at least the reason that although Choi describes granting an access, Choi is completely silent with respect to monitoring the granted access, much less monitoring capacity grant messages sent by a base station.

Furthermore, the Examiner acknowledges on page 4 of the Office Action that both IEEE and Choi fail to disclose "wherein the capacity request messages comprise information based on previous capacity requests of the at least one subscriber station," as recited in claim 17. To cure this deficiency of IEEE and Choi, the Examiner relies on Quayle.

Quayle describes user equipment sending data to a head-end station via a buffer. The user equipment sends a request for capacity based on whether the buffer is full or not. The fullness of the buffer depends on the rate at which data arrives at and leaves the buffer. The buffer, at any instant, may comprise data that it received in previous requests. Therefore, Quayle's request for capacity is sent when the rate at which data in a buffer leaves the buffer faster than the rate at which data arrives at the buffer. Rather than provide any information regarding previous capacity requests of a subscriber, Quayle merely provides information on a buffer and the rate at which it is emptied.

While Background discloses QoS, Background does not cure the aforementioned deficiencies of IEEE, Choi, and Quayle.

In view of the foregoing, claim 17 is allowable over IEEE, Choi, Background and Quayle, whether these references are taken individually or in combination, and the rejection of claim 17 under 35 U.S.C. §103(a) should be withdrawn.

Independent claims 24, 25, 56, 61, 64, and 66 include similar features as noted above with respect to claim 17. For at least the reasons noted above with respect to claim 17, independent claims 20, 24, 25, 56, 61, 64, and 66 as well as claims 18, 58-60, 62, 65, 67, 68, and 70-73 at least by reason of their dependency, are allowable over IEEE, Choi, and Background, whether these references are taken individually or in combination, and the rejection of those claims under 35 U.S.C. §103(a) should be withdrawn.

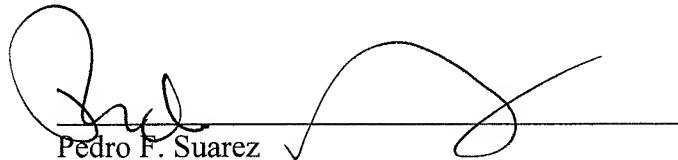
Moreover, claim 18, as amended, recites “wherein the at least one of the capacity request messages comprises an information message sent from the at least one subscriber station to a base station, wherein the at least one subscriber station provides connectivity among user terminals and the base station.” Applicants submit that neither IEEE, Choi, Background, nor Quayle discloses this noted feature. For this additional reason, claim 18 is allowable over IEEE, Choi, Background and Quayle, whether these references are taken individually or in combination, and the rejection of claim 18 under 35 U.S.C. §103(a) should be withdrawn.

CONCLUSION

On the basis of the foregoing amendments, the pending claims are in condition for allowance. It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper.

The Commissioner is hereby authorized to charge any additional claim fees and any additional fees that may be due, or credit any overpayment of same, to Deposit Account No. 50-0311, Reference No. 39700-768001US/NC39727US. If there are any questions regarding this reply, the Examiner is encouraged to contact the undersigned at the telephone number provided below.

Respectfully submitted,



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